

Applicant: Rudnick et al.
Application Serial No.: 10/775,536
Filing Date: February 10, 2004
Docket No.: 760-84 CON 4
Page 2

REMARKS

It is noted that for clarity, the Examiner has renumbered applicants' claims 54-60 as 19-25, respectively. This change by the Examiner is acknowledged.

The Examiner has objected to the specification under 35 U.S.C. §132(a) alleging that it introduces new matter into the disclosure. The Examiner contends that certain limitations included in independent claims 54, 55 and 60 are not supported by applicants' specification as originally filed. This determination is respectfully traversed.

The Examiner has objected claims 19-25 (originally claims 54-60) under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 6,517,570 to Lau et al. (hereinafter "Lau"). The Examiner contends that as the present claims were copied from Lau, Lau anticipates the claims. It is applicants' position that Lau is not an effective reference against the present claims inasmuch as the present invention is supported by the specification as originally filed on August 12, 1994 which is prior to the effective date of the Lau patent. Therefore, Lau cannot be cited against the claims of the present invention.

Claim 19 (formerly claim 54) recites a device including a support component and a tubular graft. The tubular graft is attached to the support component, only in part, allowing unattached apices to move longitudinally relative to the graft component, and the support

Applicant: Rudnick et al.
Application Serial No.: 10/775,536
Filing Date: February 10, 2004
Docket No.: 760-84 CON 4
Page 3

component being slidably secured to the graft component such that relative movement therebetween is limited.

Independent claim 20 (formerly claim 55) and 60 (formerly claim 25) define a tubular graft component positioned coaxially with the support component where the tubular graft component is attached to the support component to allow the apexes of the support component to move longitudinally relative to graft component.

Applicants' specification at page 12 clearly states that the stent (the support component) is supported to the membrane covering (the graft) with little support necessary at the flexible central section of the stent. The disclosure of little support at the central section of the stent clearly teaches one skilled in the art that the stent and the covering must be relatively movable. Such an arrangement clearly supports the limitations of the independent claims.

The Examiner focuses on the phrase "only in part" in claim 54 alleging that there is no teaching in the applicants' specification that the graft can be attached in part allowing the unattached apexes to move longitudinally. However, applicants' disclosure at page 12, stating that there is little support necessary at the flexible central section of the stent, clearly suggests to one skilled in the art that at other portions of the stent there is additional support so that at the

Applicant: Rudnick et al.
Application Serial No.: 10/775,536
Filing Date: February 10, 2004
Docket No.: 760-84 CON 4
Page 4

flexible central section, there is less support, thereby allowing some movement between the apexes of the stent and the flexible covering.

Similarly, with respect to claims 55 and 60, applicants' specification recites that little support is necessary at the flexible central section. This must infer that there would be movement between at least the central section of the stent and the overlying graft. This would allow the apexes of the stent to move relative to the graft.

When reviewing a patent specification for claim support, it has been held that there need only be set forth enough detail to allow a person of ordinary skill in the art to understand what is claimed and to recognize that the inventor invented what is claimed. *The University of Rochester v. G.D. Searle and Co., Inc.*, 358 F.3d 916, 69 U.S.P.Q. 2d. 1886 (Fed. Cir. 2004).

In the present instance, one skilled in the art of implantable stent/grafts would certainly understand the type and degree of relative securement of the stent to the graft. As such, the specification supports the claim limitations. It follows then that the applicant is entitled to the original filing date of the application and, as such, the Lau reference cannot be cited against the claims of the present invention.

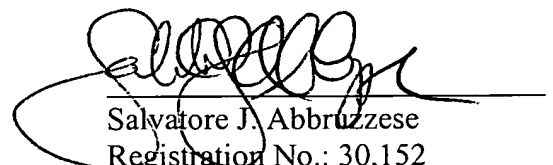
Applicant: Rudnick et al.
Application Serial No.: 10/775,536
Filing Date: February 10, 2004
Docket No.: 760-84 CON 4
Page 5

Having properly removed Lau as a reference against the present claims, it is respectfully submitted that the application is in condition for allowance. Favorable action is respectfully solicited.

The Commissioner is hereby authorized to charge payment of any additional fees associated with this communication, or credit any overpayment, to Deposit Account No. 20-0776. Such authorization includes authorization to charge fees for extensions of time, if any, under 37 C.F.R. § 1.17 and also should be treated as a constructive petition for an extension of time in this reply or any future reply pursuant to 37 C.F.R. § 1.136.

Should the Examiner have any questions regarding this response, the undersigned would be pleased to address them by telephone.

Respectfully submitted,



Salvatore J. Abbruzzese
Registration No.: 30,152
Attorney for Applicant(s)

HOFFMANN & BARON, LLP
6900 Jericho Turnpike
Syosset, New York 11791
(973) 331-1700